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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re MORNING SONG BIRD FOOD
LITIGATION

) Lead Case No.
3:12-cv-01592-JAH-AGS

This Document Relates To:

) CLASS ACTION

ALL ACTIONS.

) ORDER AWARDING ATTORNEYS'
FEES AND EXPENSES AND CLASS
REPRESENTATIVE AWARDS

DATE: June 3, 2019
TIME: 2:30 p.m.
DEPT: 13B
JUDGE: Honorable John A. Houston

1 THIS MATTER having come before the Court on June 3, 2019, on the motion
2 of Class Counsel for an award of attorneys' fees and expenses incurred in the Action
3 ("Fee Motion"); the Court, having considered all papers filed and proceedings
4 conducted herein, having found the settlement of this Action to be fair, reasonable,
5 and adequate and otherwise being fully informed in the premises and good cause
6 appearing therefor;

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

8 1. All of the capitalized terms used herein shall have the same meanings as
9 set forth in the Stipulation of Class Action Settlement dated December 7, 2018 (the
10 "Stipulation").

11 2. This Court has jurisdiction over the subject matter of this application and
12 all matters relating thereto, including all members of the Settlement Class who have
13 not timely and validly requested exclusion.

14 3. Notice of Class Counsel's Fee Motion was given to all Settlement Class
15 Members who could be located with reasonable effort. The form and method of
16 notifying the Settlement Class of the Fee Motion met the requirements of Rule 23 of
17 the Federal Rules of Civil Procedure, due process, and any other applicable law,
18 constituted the best notice practicable under the circumstances, and constituted due
19 and sufficient notice to all persons and entities entitled thereto.

20 4. The Court hereby awards Class Counsel attorneys' fees of 25% of the
21 Settlement Amount and expenses in the amount of \$449,156.17 together with the
22 interest earned on such amounts for the same time period and at the same rate as that
23 earned on that portion of the Settlement Fund until paid.

24 5. In making this award of fees and expenses to Class Counsel, the Court
25 has considered and found that:

26 (a) the amount of fees awarded is fair and reasonable under the
27 "percentage-of-recovery" method and it is consistent with the benchmark for
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1 attorneys' fees awarded in the Ninth Circuit. *E.g., In re Bluetooth Headset Prods.*
2 *Liab. Litig.*, 654 F.3d 935, 940 (9th Cir. 2011);

3 (b) Class Counsel has pursued the Action and achieved the Settlement
4 with skill, perseverance, and diligent advocacy;

5 (c) Class Counsel has expended substantial time and effort pursuing
6 the Action on behalf of the Settlement Class;

7 (d) Class Counsel pursued the Action on a contingent basis, having
8 received no compensation during the Action, and any fee amount has been contingent
9 on the result achieved;

10 (e) the Action involves complex factual and legal issues and, in the
11 absence of settlement, would involve lengthy proceedings whose resolution would be
12 uncertain;

13 (f) had Class Counsel not achieved the Settlement, there would remain
14 a significant risk that the Settlement Class may have recovered less or nothing from
15 Defendants; and

16 (g) Class Counsel has devoted over 16,500 hours, with a lodestar value
17 of over \$9.6 million to achieve the Settlement.

18 6. The awarded attorneys' fees and expenses shall be paid to Class Counsel
19 from the Settlement Fund within ten (10) business days of entry by the Court of this
20 Order subject to the terms, conditions, and obligations of the Stipulation, which are
21 incorporated herein.

22 7. Plaintiffs Laura Cyphert, Milt Cyphert, Ellen Larson and David Kirby are
23 each awarded \$10,000 as service awards for their time representing the Settlement
24 Class.

25 IT IS SO ORDERED.

26 DATED: June 3, 2019

27 
28 THE HONORABLE JOHN A. HOUSTON
UNITED STATES DISTRICT JUDGE